

ORIGINAL

Approved:

*Kevin Mead*KEVIN MEAD  
Assistant United States AttorneyBefore: THE HONORABLE DEBRA FREEMAN  
United States Magistrate Judge  
Southern District of New York

20 MAG 6017

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
-v.-	:	Violations of 18 U.S.C.
	:	§§ 922(g)(1), 924(a)(2)
	:	and 2
DAMIAN MATOS,	:	COUNTY OF OFFENSE:
Defendant.	:	BRONX
	:	

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SOUTHERN DISTRICT OF NEW YORK, ss.:

CARLOS LOZADA, being duly sworn, deposes and says that he is a Detective with the New York Police Department ("NYPD"), and charges as follows:

COUNT ONE

1. On or about March 8, 2020, in the Southern District of New York, DAMIAN MATOS, the defendant, knowing he had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess a firearm, to wit, a 9mm Smith & Wesson pistol, and the firearm was in and affecting interstate and foreign commerce.

(Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 2.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

2. I have been involved in the investigation of this matter, and I base this affidavit on that experience, as well as on my conversations with other law enforcement agents, and my examination of various reports and records. Because this

affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my review of criminal history records for DAMIAN MATOS, the defendant, I know the following:

a. On or about June 14, 2002, MATOS pleaded guilty in Bronx County Supreme Court to one count of Grand Larceny in the Fourth Degree in violation of New York Penal Law Section 155.30, which is a Class E felony that carries a maximum term of imprisonment of four years. On or about April 9, 2003, MATOS was sentenced to a term of imprisonment of between 16 months and four years.

b. On or about June 19, 2014, MATOS pleaded guilty in Bronx County Supreme Court to one count of Assault in the Second Degree in violation of New York Penal Law Section 120.05, which is a Class D felony that carries a maximum term of imprisonment of seven years. On or about July 29, 2014, MATOS was sentenced to a term of imprisonment of three years, to be followed by five years of post-release supervision.

4. Based on my participation in the investigation, my conversations with the four law enforcement officers referenced below, and my review of documents and records, I have learned, in substance and in part, the following:

a. On or about March 8, 2020 at approximately 4:00 a.m., four law enforcement officers ("Officer-1," "Officer-2," "Officer-3," and "Officer-4," and together, the "Officers) responded to a 911 call of an assault in progress in a building located in the Bronx, New York (the "Apartment Building").

b. The four law enforcement officers searched the building to find the 911 caller and the assailant. Officer-1 and Officer-2 began a search of the Apartment Building from the top floor down. Officer-3 and Officer-4 began a search of the Apartment Building from the middle floor down.

c. While in one of the Apartment Building's stairwells, Officer-1 heard voices in the hallway on the 12<sup>th</sup> floor. Officer-1 observed a Hispanic male ("Suspect-1") who wore a red hooded sweatshirt, had a shaved head, and was holding

a black firearm. Suspect-1 was talking to another individual in the hallway.

d. Officer-1 instructed Suspect-1 to drop the firearm, and Suspect-1 fled into the opposite stairwell.

e. Officer-1 used his radio to inform the other police officers that an individual wearing a red hooded sweatshirt had a firearm.

f. Officer-3 and Officer-4 apprehended an individual matching the description of Suspect-1 in a stairwell of the second floor of the Apartment Building shortly afterwards.

g. Officer-1 and Officer-2 then rejoined Officer-3 and Officer-4 and Officer-1 confirmed that the individual apprehended by Officer-1 and Officer-2 was Suspect-1.

h. The Officers conducted a search of Suspect-1 and did not locate a firearm.

i. The Officers then conducted a search of the Apartment Building, during which Officer-2 located a black firearm on top of an electrical box in the stairwell on the tenth floor.

5. Based on my review of a video recording of a custodial interview of DAMIAN MATOS, the defendant, on March 8, by a detective of the NYPD (the "Detective"), I have learned, in sum and substance, and among other things, the following:

a. MATOS was advised of his Miranda rights, waived those rights, and agreed to speak with the Detective.

b. MATOS admitted to possessing the firearm that Officer-1 observed and Officer-2 located.

c. MATOS stated that he had put the firearm on top of a box in the stairwell, which is consistent with the location where the firearm was recovered.

6. I have reviewed an NYPD Firearm Examination, which identifies the firearm that was recovered from DAMIAN MATOS, the defendant, as an operable Smith & Wesson 9mm Luger caliber semi-automatic pistol.

7. I have communicated with experts at the United States Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives, who have confirmed that the recovered firearm was manufactured outside of the State of New York.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of DAMIAN MATOS, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

s/Carlos Lozada, by the Court, with permission

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CARLOS LOZADA  
Detective  
New York Police Department

Sworn to me through the transmission  
of this Complaint by reliable electronic  
means (FaceTime), pursuant to Federal  
Rules of Criminal Procedure 41(d)(3)  
and 4.1, this 9th day of June, 2020

*Debra Freeman*

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THE HONORABLE DEBRA FREEMAN  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK